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IRRIGATION PROJECT CONTRACT EXTENSION ACT OF 1997

AUGUST 25, 1998.—Ordered to be printed

Filed under authority of the order of the Senate of July 31, 1998

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 1398]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1398) to extend certain contracts the Bureau of Reclamation and irrigation water contractors in Wyoming and Nebraska that receive water from Glendo Reservoir, having considered the same, reports favorably thereon with an amendment, and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Irrigation Project Contract Extension Act of 1998”.

SEC. 2. EXTENSION OF CONTRACTS.

(a) **IN GENERAL.**—The Secretary of the Interior shall extend each of the water service or repayment contracts for the Glendo Unit of the Missouri River Basin Project identified in subsection (c) until December 31, 2000.

(b) **EXTENSIONS COTERMINOUS WITH COOPERATIVE AGREEMENT.**—If the cooperative agreement entitled “Cooperative Agreement for Platte River Research and other Efforts Relating to Endangered Species Habitats Along the Central Platte River, Nebraska”, entered into by the Governors of the States of Wyoming, Nebraska, and Colorado and the Secretary of the Interior, is extended for a term beyond December 31, 2000, the contracts identified in subsection (c) shall be extended for the same term, but not to go beyond December 31, 2001. If the cooperative agreement terminates prior to December 31, 2000, the contracts identified in subsection (c) shall be subject to renewal on the date that the cooperative agreement terminates.

(c) **CONTRACTS.**—The contracts identified in this subsection are—

(1) the contract between the United States and the New Grattan Ditch Company for water service from Glendo Reservoir (Contract No. 14-06-700-7591), dated March 7, 1974;

(2) the contract between the United States and Burbank Ditch for water service from Glendo Reservoir (Contract No. 14-06-700-6614), dated May 23, 1969;

(3) the contract between the United States and the Torrington Irrigation District for water service from Glendo Reservoir (Contract No. 14-06-700-1771), dated July 14, 1958;

(4) the contract between the United States and the Lucerne Canal and Power Company for water service from Glendo Reservoir (Contract No. 14-06-700-1740, as amended), dated June 12, 1958, and amended June 10, 1960;

(5) the contract between the United States and the Wright and Murphy Ditch Company for water service from Glendo Reservoir (Contract No. 14-06-700-1741), dated June 12, 1958;

(6) the contract between the United States and the Bridgeport Irrigation District for water service from Glendo Reservoir (Contract No. 14-06-700-8376, renumbered 6-07-70-W0126), dated July 9, 1976;

(7) the contract between the United States and the Enterprises Irrigation District for water service from Glendo Reservoir (Contract No. 14-06-700-1742), dated June 12, 1958;

(8)(A) the contract between the United States and the Mitchell Irrigation District for an increase in carryover storage capacity in Glendo Reservoir (Contract No. 14-06-700-1743, renumbered 8-07-70-W0056 Amendment No. 1), dated March 22, 1985; and

(B) the contract between the United States and the Mitchell Irrigation District for water service from Glendo Reservoir (Contract No. 14-06-700-1743, renumbered 8-07-70-W0056) dated June 12, 1958; and

(9) the contract between the United States and the Central Nebraska Public Power and Irrigation District for repayment of allocated irrigation costs of Glendo Reservoir (Contract No. 5-07-70-W0734), dated December 31, 1984.

(d) STATUTORY CONSTRUCTION.—Nothing in this section precludes the Secretary of the Interior from making an extension under subsection (a) or (b) in the form of annual extensions.

PURPOSE OF THE MEASURE

The purpose of S. 1398, as reported, is to extend the term of eight water service and one repayment contract from the Glendo Unit of the Missouri River Basin Project until December 31, 2000 and for such additional time as the cooperative agreement on endangered species on the Central Platte River is in effect, but not beyond December 31, 2001.

BACKGROUND AND NEED

The Glendo Unit is a multiple-purpose project. It consists of Glendo Dam, Reservoir, and Powerplant; Fremont Canyon Powerplant; and Gray Reef Dam and its reregulating reservoir. The unit features are located on the North Platte River in eastern and central Wyoming and are adjacent to, and work in conjunction with, other units of the Pick-Sloan Missouri Basin Program and the Kendrick and North Platte Projects.

The Glendo Unit was authorized for construction under the Flood Control Act of December 22, 1944. Public Law 85-534, which approved the general plan set forth in Senate Documents 191 and 475, as revised and coordinated by Senate Document 78-247. The project was reauthorized by Public Law 83-503, on July 16, 1954. Construction of Gray Reef Dam and Reservoir was authorized separately by Public Law 85-695 (72 Stat. 687), approved August 20, 1958. Construction began December 1954 on the Glendo Dam, Reservoir, and Powerplant and was completed in 1958. Construction of the Fremont Canyon Powerplant and power conduit was begun in 1956 and completed in 1961. Construction of Gray Reef Dam and Reservoir was started in 1959 and completed in 1961.

The unit furnishes a maximum of 40,000 acre-feet of water annually from Glendo Reservoir for irrigation in Wyoming and Nebraska, and electrical power is supplied to Wyoming, Colorado, and Nebraska by the Glendo and Fremont Canyon Powerplants, which have installed capacities of 24,000 and 48,000 kilowatts, respectively. The Glendo Unit provides irrigation, power generation, flood control, fish and wildlife enhancement, recreation, sediment retention, pollution abatement, and improvement of the quality of municipal and industrial water supply in the North Platte River Valley between Gray Reef Dam and Glendo.

The Glendo Reservoir provides supplemental water under provisions of the 1945 U.S. Supreme Court Decree, as modified for Glendo in 1953, which allows for water from Glendo storage to be divided between Nebraska and Wyoming. The Bureau of Reclamation is authorized to contract for delivery of up to 15,000 acre-feet of water annually for irrigation use in Wyoming and for up to 25,000 acre-feet annually for use in Nebraska. The 25,000 acre-feet for use in Nebraska and 4,400 acre-feet of the water allotted to Wyoming are now under water service contracts which will expire on December 31, 1998. The existing Glendo water service contracts are with:

Bridgeport Irrigation District—6-07-70-W0126 (1976) Glendo Unit, "Contract Between the United States and the Bridgeport Irrigation District for Water Service from Glendo Reservoir." Provided for delivery of up to 2,000 acre-feet of water.

Burbank Ditch—9-07-70-W0127 (1969) Glendo Unit, "Contract Between the United States and Burbank Ditch for Water Service from Glendo Reservoir." Provides for delivery of up to 200 acre-feet of water.

Central Nebraska Public Power and Irrigation District—5-07-70-W0734 (1984) Glendo Unit, "Contract Between the United States and CNPPID for Repayment of Allocated Irrigation Costs of Glendo Reservoir." Provides for water service of up to 8,000 acre-feet from Glendo Reservoir.

Enterprise Irrigation District—8-07-70-W0055 (1958) Glendo Unit, "Contract Between the United States and Enterprise Irrigation District for Water Service from Glendo Reservoir." Provides for delivery of up to 3,000 acre-feet of water.

Lucerne Canal and Power Company—8-07-70-W0053 (1960, 1958) Glendo Unit, "Contract between the United States and the Lucerne Canal and Power Company for Water Service from Glendo Reservoir." Provides for delivery of up to 2,500 acre-feet.

Mitchell Irrigation District—8-07-70-W0056 (1958) Glendo Unit, "Contract Between the United States and Mitchell Irrigation District for Water Service from Glendo Reservoir." Provides for delivery of up to 12,000 acre-feet. *Amendment No. 1* (1985) provides for an additional 5,000 acre-feet of carryover storage space.

New Grattan Ditch Company—8-07-70-W0052 (1974) Glendo Unit, "Contract Between the United States and the New Grattan Ditch Company for Water Service from Glendo Reservoir." Provides for delivery of up to 500 acre-feet of water.

Torrington Irrigation District—9-07-70-W0062 (1958) Glendo Unit, "Contract Between the United States and Torrington Irriga-

tion District for Water Service from Glendo Reservoir.” Provides for delivery of up to 1,000 acre-feet of water.

Wright and Murphy Ditch Company—8-07-70-W0054 (1958) Glendo Unit, “Contract Between the United States and Wright and Murphy Ditch Company for Water Service from Glendo Reservoir.” Provides for delivery of up to 200 acre-feet of water.

Glendo Dam is one of seven Reclamation dams on the North Platte River that is being evaluated for threatened and endangered species on a system-wide basis. The Department of the Interior has informed the Districts that contract renewals would involve review under the National Environmental Policy Act and the Endangered Species Act and that the Glendo contractors would be responsible for all costs of review and documentation. There appears to be a general consensus that those will be prohibitive and the review would be duplicative of the reviews necessary to implement any Platte River Recovery Program.

On July 1, 1997, Wyoming, Nebraska, and Colorado entered into a cooperative agreement for Platte River research on endangered species habitat along the central Platte River in Nebraska with the Department of the Interior to deal with four threatened and endangered species (whooping crane, interior least tern, piping plover, and the pallid sturgeon). Reclamation’s evaluation should be completed following the three-year Environmental Impact Statement process under the Platte River Cooperative Program. The Cooperative Program should lead to a Habitat Recovery Program that will serve as the reasonable and prudent alternative for endangered species consultations in the Basin. This process would also meet the needs for the Glendo contract consultation.

Although the Department could provide annual extensions for the contract, an extension until 2000, with extensions as necessary to take advantage of the work being undertaken in the cooperative agreement, would provide some certainty to the water users and permit completion of environmental and other reviews associated with renewal of the contracts. In addition, extension of the contracts would also let the contractors know what additional conditions, if any, would be imposed on contract renewals and allow them to make an informed decision on renewal.

LEGISLATIVE HISTORY

S. 1398 was introduced by Senator Thomas (for himself and Senators Kerrey, Enzi, and Hagel) on November 7, 1997. A hearing was held by the Subcommittee on Water and Power on June 16, 1998. Similar legislation (H.R. 2795) was introduced by Congressman Barrett on November 4, 1997 and was ordered reported by the House Resources Committee on May 20, 1998.

At the business meeting on July 29, 1998, the Committee on Energy and Natural Resources ordered S. 1398, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on July 29, 1998, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. 1398, if amended as described herein.

COMMITTEE AMENDMENT

During the consideration of S. 1398, the Committee adopted an amendment to address concerns raised by the Administration over the length of the contract extension.

SECTION-BY-SECTION ANALYSIS

Section 1 provides a short title.

Section 2 requires the Secretary of the Interior to extend certain contracts identified in subsection (c) until December 21, 2000 with an additional extension to December 31, 2001 if the cooperative agreement between Colorado, Wyoming, Nebraska and the Secretary on the Central Platte is also extended. The section also provides that the contracts would become subject to renewal whenever the cooperative agreement terminates. Subsection (d) clarifies that these provisions to not affect the Secretary's authority under existing law to provide annual extensions. If the cooperative agreement continues beyond December 31, 2001, or if there are other reasons that the Secretary believes warrant an extension, this legislation does not limit his ability to use the other authorities to provide extensions.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

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CBO estimates that enacting S. 1398 would not have a significant impact on the federal budget. Enacting S. 1398 would affect direct spending by reducing offsetting receipts; therefore, pay-as-you-go procedures would apply, but the amounts involved would be insignificant.

S. 1398 would extend—for up to three years—contracts between the Bureau of Reclamation and purchasers of irrigation water in Wyoming and Nebraska that receive water from the Glendo Reservoir. The existing contracts will expire on December 31, 1998, but the Secretary of the Interior has the authority under current law to renew these contracts on an annual basis. Such annual renewals require the Secretary to prepare an environmental impact statement and carry out mitigation efforts that are in addition to an ongoing study involving uses of water in the area. Based on information provided by the Bureau of Reclamation, CBO estimates that enacting S. 1398 would allow the bureau to avoid costs of about \$200,000 in 1999 and small amounts in future years. Those costs are subject to the availability of appropriated funds, but the agency is reimbursed by individuals contracting for water and the reimbursements are deposited in the Treasury as offsetting receipts (a form of direct spending). The potential loss of offsetting receipts would match the potential reduction in spending subject to appropriation, and both would be insignificant.

S. 1398 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. The contractors affected by this bill generally are governmental entities. Under current law, these

contractors would be required to reimburse the Bureau of Reclamation for some of the costs associated with the annual renewal of their contracts, including preparation of environmental impact statements. By extending the contracts for up to three years, this bill would allow the contractors to avoid these costs. As noted above, CBO estimates that the avoided costs would total about \$200,000 in the first year, and less thereafter.

On June 19, 1998, CBO prepared a cost estimate for H.R. 2795, the Irrigation Project Contract Extension Act of 1997, as ordered reported by the House Committee on Resources on May 20, 1998. The two bills are nearly identical, and the cost estimates are identical.

The CBO staff contacts for the estimate of federal costs are Joanna Wilson and Gary Brown. The contact for the impact on state and local governments is Marjorie Miller. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1398. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1398, as ordered reported.

EXECUTIVE COMMUNICATIONS

On June 5, 1998, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on S. 1398. These reports had not been received at the time the report on S. 1398 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The relevant testimony provided by the Bureau of Reclamation at the Subcommittee hearing follows:

STATEMENT OF ELUID L. MARTINEZ, COMMISSIONER, U.S. BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

Thank you for the opportunity to appear today to provide the Administration's views on S. 1398.

S. 1398 requires that the Secretary of the Interior extend the terms of each of the water service or repayment contracts for the Glendo Unit of the Missouri River Basin Project for a period of 3 years until December 31, 2001.

Mr. Chairman, the Department supports the purpose of S. 1398, but cannot support this bill as drafted. However, the Department could support S. 1398 subject to technical modifications recommended in this statement.

Glendo Dam and Reservoir is one of several Bureau of Reclamation dams and reservoirs on the North Platte River. S. 1398 directs the Secretary of the Interior to extend for three years water service or repayment contracts for the Glendo Unit of the Pick Sloan Missouri Basin Program scheduled to expire on December 31, 1998. The legislation would extend the contracts until December 31, 2001, or for the term of the cooperative agreement entered into by the states of Wyoming, Nebraska, Colorado and the Secretary of the Interior.

On July 1, 1997, the states of Wyoming, Nebraska, and Colorado entered into a cooperative agreement with the Department of the Interior for Platte River research and other efforts relating to endangered species habitats along the central Platte River in Nebraska. The purpose of the cooperative agreement is to jointly undertake a basin-wide effort to improve the habitat of four threatened and endangered species that use the Platte River. In the event that the cooperative agreement is extended beyond December 31, 2001, S. 1398 would extend the water service contracts for the Glendo Unit coterminous with the cooperative agreement.

By extending the contracts, S. 1398 will improve the Department's ability to complete the environmental impact statement on a plan to provide additional river flow and improve the habitat for the benefit of the whooping crane, interior least tern, piping plover and the pallid sturgeon in the Central Platte region in Nebraska. In addition, contract extension will enable appropriate consultation to take place consistent with the Endangered Species Act.

The Department does not support S. 1398 as drafted because it could enable the contracts to be perpetually extended. To correct this problem, the Department recommends the bill be amended as follows:

1. Change the date in Section 2(a) from December 31, 2001 to December 31, 2000; and,
2. Change Section 2(b) to read "If the cooperative agreement entitled "Cooperative Agreement for Platte River Research and other efforts Relating to Endangered Species Habitat Along the Central Platte River, Nebraska", entered into by the Governors of the states of Wyoming, Nebraska, and Colorado and the Secretary of the Interior, is extended for a term beyond December 31, 2000, the contracts identified in subsection (c) shall be extended for the same term, but not beyond December 31, 2001. If the cooperative agreement terminates prior to December 31, 2000, the contracts identified in subsection (c) shall be subject to renewal on the date that the cooperative agreement terminates.

Again, Mr. Chairman, the Department supports the intent of this legislation and with the above technical modifications, we could support S. 1398.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 1398, as ordered reported.

